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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,178	06/24/2002	Joe Dale Reed		6613

7590 08/12/2003

DAVID E. ALLRED  
SCHMEISER, OLSEN & WATTS  
18 EAST UNIVERSITY DRIVE  
SUITE 101  
MESA, AZ 85201

EXAMINER

LOPEZ, MICHELLE

ART UNIT	PAPER NUMBER
3721	

DATE MAILED: 08/12/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/072,178	REED, JOE DALE
Examiner	Art Unit	
Michelle Lopez	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 24 June 2002.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 2 and 3 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2 and 3 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. This action is in response to applicant's amendment received on July 1, 2003.
2. Claim 1 was canceled.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panasewicz'652 in view of Osborn'822. Panasewicz discloses an enclosure "10" with a front face "30", a top face (see Fig. 1), a bottom face at the vicinity of "32", sides "18, 20", and a back face "24", a bag hanger "14" supported to the upper portion of the front face "30", a first opening "74" in the front face, a second opening in the enclosure "78", a blower unit "64", an airflow outlet guide "80", a first guide wall at the airflow outlet guide "80" facing the front face in a substantially parallel orientation (see Fig. 3). Panasewicz does not disclose a motion sensor mounted on an exterior of the enclosure. However, Examiner takes Official Notice of the well-known act of providing devices with a motion sensor for the purpose of automatically activating the device only during time of use. Note U.S. Patent 5,974,685. Therefore, it would have been obvious to one having ordinary skill in the art to have provided Panasewicz's invention including a motion sensor mounted on an exterior of the enclosure of the bag opener in order to detect the presence of a user activating and automatically turned on and off a blower.

Panasewicz does not specifically state a lower bag hanger. However, Osborn teaches a lower bag hanger (see Fig. 1-2) for the purpose of supporting the bag in a vertical position during the opening process. In view of Osborn, it would have been obvious to one having ordinary skill in the art to have provided Panasewicz's invention with a lower bag holder in order to support the bag in a vertical position allowing the airflow blowing inside the bag, filling it to a fully opened position.

Also, Panasewicz does not specifically state a second guide wall supported at an acute angle on the front face, extending away from the airflow outlet and toward a plane of the first guide wall. However, Panasewicz teaches a second guide wall at the upper end of "30" (see Fig. 3) supported at an angle less than 90° on the front face for the purpose of directing the air blowing at a front bag opening. In view of Panasewicz, it would have been obvious to one having ordinary skill in the art to have include a second guide wall supported at an acute angle on the front face, extending away from the airflow outlet and toward a plane of the first guide wall instead of a second guide wall at the upper end of "30" supported at an angle less than 90° on the front face as a matter of design choice, as both configuration can perform the same function of directing a blowing air at a front bag opening.

#### *Response to Arguments*

4. Applicant' remarks have been fully considered but they are deemed moot in view of the new grounds of rejection.
5. For the reasons above in paragraph 4, the ground of rejection are deem proper.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hironaka'685 and Chardack'430 are cited to show related inventions.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 703-305-8205. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ML  
August 5, 2003



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700